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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 TRUSTEES OF THE OPERATING  
8 ENGINEERS PENSION TRUST, *et al.*,

9 Plaintiffs,

v.

10 WESTERN EXPLOSIVES SYSTEMS  
11 COMPANY,

12 Defendant.  
13

Case No. 2:18-cv-00805-JCM-GWF

**ORDER**

14 This matter is before the Court on Plaintiff's Motion to Compel (ECF No. 10), filed  
15 August 13, 2018. To date, no response has been filed and the time for which has passed.

16 Plaintiffs request an order compelling Defendant to respond to Plaintiff's first set of  
17 written discovery including interrogatories and request for production of documents. The  
18 certificates of service indicate that Plaintiffs mailed their first set of requests for written  
19 discovery on June 22, 2018. Plaintiffs' counsel represents that three days after the deadline for  
20 Defendant to submit its response passed, he sent a letter to Defendant's counsel reminding him  
21 of the missed deadline and to schedule a time to meet and confer. Plaintiffs' counsel indicates  
22 that on August 2, 2018, counsel for both parties met and conferred and reached an agreement that  
23 Defendant would respond to requested discovery no later than August 9, 2018. Plaintiffs'  
24 counsel further represents Plaintiffs are still without response.

25 To date, no party has responded to this motion and the time for opposition has now  
26 passed. LR 7-2(d) reads in pertinent part, that "[t]he failure of an opposing party to file points  
27 and authorities in response to any motion shall constitute a consent to the granting of the  
28 motion." As a result, the Court will grant the present motion.

1           Additionally, Plaintiffs' argue they be entitled to recover attorney's fees incurred as a  
2 result of this motion, pursuant to Rule 37(a)(5)(A). Federal Rule of Civil Procedure  
3 37(d)(1)(A)(ii) permits the court to grant sanctions when a party, after being properly served  
4 with interrogatories or request for inspection, fails to file its answers or written response. The  
5 Court will therefore grant Plaintiffs' request for attorney's fees. Accordingly,

6           **IT IS HEREBY ORDERED** that Plaintiff's Motion to Compel (ECF No. 10) is  
7 **granted.**

8           **IT FURTHER ORDERED** that Defendant shall serve its answers to Plaintiffs First Set  
9 of Interrogatories and responses to Requests for Production no later than **fourteen (14) days**  
10 after the entry of this order.

11           **IT FURTHER ORDERED** as follows:

12           1. Plaintiffs are entitled to an award of reasonable attorney's fees and costs incurred in  
13 filing the instant motion. Counsel for the Plaintiffs shall, no later than fourteen (14) days from  
14 the entry of this order, up to and including **September 24, 2018**, serve and file a memorandum,  
15 supported by affidavit of counsel, establishing the amount of attorney's fees and costs incurred.  
16 The memorandum shall provide a reasonable itemization and description of work performed,  
17 identify the attorney(s) or staff member(s) performing the work, the customary fee of the  
18 attorney(s) or staff member(s) for such work, and the experience, reputation and ability of the  
19 attorney performing the work. The attorney's affidavit shall authenticate the information  
20 contained in the memorandum, provide a statement that the bill has been reviewed and edited,  
21 and a statement that the fees and costs charged are reasonable.

22           2. Counsel for Defendant shall have fourteen (14) days from service of the memorandum  
23 of costs and attorney's fees, up to and including **October 8, 2018**, in which to file a responsive  
24 memorandum addressing the reasonableness of the costs and fees sought, and any equitable  
25 considerations deemed appropriate for the court to consider in determining the amount of costs  
26 and fees which should be awarded

27           3. Counsel for Plaintiff shall have seven (7) days from service of the responsive  
28 memorandum, up to and including **October 15, 2018**, in which to file a reply.

**IT FURTHER ORDERED** that the hearing currently scheduled for Thursday, September 13, 2018 at 9:30 AM shall be vacated.

Dated this 10th day of September, 2018.

George Foley Jr.

GEORGE FOLEY, JR.  
UNITED STATES MAGISTRATE JUDGE